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**IN THE UNITED STATES DISTRICT COURT**  
**IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<b>THE UNITED STATES OF AMERICA,</b>  Plaintiff,  v.  <b>DAMIR ZULCIC,</b>  Defendant.	<b>SENTENCING MEMORANDUM</b>  Case No. 2:21-CR-00414 Judge Stewart
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Mr. Zulcic, by his attorney, files the following sentencing memorandum in regard to his sentencing scheduled for December 19, 2023. Mr. Zulcic takes no issue with the presentence report or the guideline calculations contained therein.

Mr. Zulcic has been convicted by a guilty plea of felon in possession of a firearm, a violation of 18 U.S.C. §922 (g)(1). Under the circumstances of this particular case, his sentencing guideline is 70-87 months<sup>1</sup>. The guideline is based in part upon a criminal history of V. Mr. Zulcic asserts that his criminal history is greatly overrepresented and that he should be sentenced to time served and a term of supervised release.

As the court is well aware, under 18 U.S.C. § 3553 (a), the Court must consider the following factors:

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<sup>1</sup> Presentence report paragraph 62.

- (1) The nature and circumstances of the offense history and characteristics of the defendant;
- (2) The need for the sentence to be imposed to
  - (a) Reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense;
  - (b) Afford adequate deterrence to criminal conduct;
  - (c) Protect the public from further crimes of the defendant;
  - (d) Provide the defendant with needed educational, vocational training, medical care, or other correctional treatment in the most effective manner;

(3) The kinds of sentences available;

(4) The kinds of sentence and the sentencing range established for . . .

A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced...

(5) Any pertinent policy statement issued by the United States Sentencing Commission;

(6) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) The need to provide restitution to any victims.

Mr. Zulcic is a drug addict. All of his crimes involve drugs. All of his felony drug crimes occurred in a five year period from 2013-2018. In 2013, when he was 21 years old, he was convicted of possession of heroin with intent to distribute it. He possessed 26.7 grams of heroin, empty baggies, and a scale. The evidence was discovered not as part of a drug transaction but when he was stopped for making a wide turn in a car and did not signal<sup>2</sup> He did not have a firearm on his person and he did not have a firearm in the vehicle.

Mr. Zulcic's next encounter with the criminal justice system came when he was 24 years old in 2016. He entered a guilty plea as charged to possession of heroin with intent to distribute it. Two other individuals arranged to sell heroin to an undercover agent and had Mr. Zulcic bring bindles of heroin to the location of the sale. He was given drug court and a plea in abeyance but he was unable to complete drug court because he left treatment early and continued to use heroin himself.<sup>3</sup> Again, no firearm was involved in this offense.

His third offense came in 2018 when he was 26 years old. He entered a guilty plea to possession or use of heroin. By now, the pattern of his problem is obvious. The offense is ordinarily a misdemeanor under Utah law but in this case was enhanced to a third degree felony because of his two prior convictions<sup>4</sup> He was found passed out in a car with heroin and the vestiges of heroin he had used in his lap. There was no firearm on his person nor was there one in the vehicle.

Mr. Zulcic has no violent crimes on his record. He has none because he is not a violent person and has not committed such a crime .He has no history of possessing firearms at any time

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<sup>2</sup> Presentence report, paragraph 32

<sup>3</sup> Presentence report, paragraph 33

<sup>4</sup> Presentence report, paragraph 34 and Third District Court file 191900732

until the present offense. The present offense is well documented in paragraphs 6, 7, 8, 9, 10, and 11 of the presentence report. He sent offensive text messages to his then partner in violation of a protective order and included a video of him holding a handgun. According to his mother, he was under the influence of drugs and hallucinating at the time.<sup>5</sup> The threats were reported to his probation officer and drugs and the gun in the video were found in the car he shared with others. He was arrested and taken back to prison on February 12, 2021, where he has remained for the same facts that give rise to the present offense for what is now two years and 10 months, 34 months in total. The person who was the subject of the protective order violation has written the Court a letter in which she says in part, “I think he has done enough time Judge Stewart. I know this is not my place in any way to give the punishment but I am asking for leniency for Damir”. “Damir has so much family, love and support.”

To understand how Mr. Zulcic became the thrice convicted drug felon he is today, one must go back to the beginning of his life. His mother has written a biography of him that is attached to this memorandum and speaks eloquently for itself. Mr. Zulcic was born in war torn Yugoslavia. Shortly after he was born, he was left behind by both of his parents who had been forced to move to Germany seeking safety and a better life. In his first four years, his cousin was killed by a land mine. When he was reunited with his parents he spent time in a refugee camp. Upon his ultimate arrival in the United States, his parents separated and his father would not allow him to have any contact with his mother. His father would regularly beat him, something that to this day Mr. Zulcic thinks is normal discipline. At 31, he has lived a life like something out of a Cormac McCarthy novel. It is no surprise that he would have turned to readily available drugs at an early age to dull the pain of the life had lived to that point.

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<sup>5</sup> See his mother’s biography of Damir, attached.



The presentence report notes on page 2 that Mr. Zulcic is a member of KMD, King Mafia Disciples. King Mafia Disciples is a gang started by young African American men. Mr. Zulcic, a white Yugoslavian Muslim, gravitated to them to fill the void in his family life. While in prison, he has left the gang and is presently in what is essentially protective custody because he no longer wants anything to do with such groups. He has made arrangements for tattoo removal when he is released. In other words, he has used his time in prison to rehabilitate himself rather than sink further into a criminal lifestyle.

18 USC §3553 suggests that the Court impose a sentence that promote respect for the law, reflects the seriousness of the offense, and provides a *just* punishment for the offense. It urges the Court in doing so to consider the defendant's characteristics when imposing such a sentence. Mr. Zulcic is a drug addict. All of his crimes that give him a criminal history category of V are crimes involving drugs. He has in the past nearly killed himself with drugs. He has been involved in possession with intent to distribute some of his drugs to others in furtherance of his own habit. He has no violent offenses. He has no gun related offenses of any kind in his past. On one occasion, for a brief moment while under the influence of drugs, he possessed a firearm. It was a crime to do so. The greater crime would be to impose a sentence of 70-87 months for that brief indiscretion by a drug addict with no history of violence or firearm use or possession. The primary victim of his crimes has been himself. He has been at the Utah State Prison since February 12, 2021, 34 months in custody with no parole date pending the outcome of this offense that sent him back to prison. Given his extraordinarily tumultuous childhood, the love and support of his mother, his desire to rehabilitate himself, and his absence of any crimes other than drugs in his past, that 34 months he has spent in state custody is an adequate punishment, a *just* punishment for what he did in this case. It will certainly deter others from following in his footsteps although one would be hard pressed to

imagine many lives that could possible replicate what Mr. Zulcic has endured. He respectfully requests, indeed implores, the Court to impose time served and supervised release with a drug treatment program as a special condition.

DATED this 18<sup>th</sup> day of December, 2023.

/s/ EDWARD K. BRASS  
EDWARD K. BRASS  
Attorney for the Defendant

**ELECTRONIC FILING CERTIFICATE**

I hereby certify that a true and correct copy of the foregoing Sentencing Memorandum was filed electronically and caused to be served by electronic notice to all parties on December 18, 2023.

/s/Edward K. Brass

**Biography of Damir Zulcic by  
Slavica Loncar**



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**Damir's story**

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**From :** Slavica Loncar <slavicaloncar@gmail.com>

Sun, Aug 13, 2023 02:00 AM

**Subject :** Damir's story**To :** Ed Brass <ed@edbrasslaw.com>

Shortly before Damir was born, the war in former Yugoslavia began. Circumstances were less than ideal, and I had to leave him right after giving birth. His father and I went to Germany, where we worked undocumented, to be able to send money back to both of our families for survival during war times. His father and I lived in a house full of war refugees, and there was no place for him or his older sister (my daughter from the first marriage). After about 9 months, we reunited, and he and his sister joined us in Frankfurt, where we remained for the next few years. If nothing else in life happened to my children but only the life of refugees from war-affected countries, it would be enough for trauma and PTSD to last a lifetime. Unfortunately, that was not the only trauma he endured. His father was extremely controlling and verbally and physically abusive. After we moved to the United States (1996), I filed for divorce. I still remember that day. Damir's father tossed me on the ground in the kitchen and kicked me in the neck with his shoes. I looked up and saw my son and daughter standing at the door, watching. That was the moment I decided to leave. We had nothing, and my daughter and I moved into roaches-infested apartments on Redwood Rd. I wanted a better life for my son and aimed toward shared custody. Unfortunately, lack of education, lack of English language, being young, naïve, and trusting the wrong people resulted in Damir's father taking full custody of him. Shortly after the divorce was finalized, my ex-husband and Damir disappeared. When I found him (with the lawyer's help), they were in Tooele. I worked strange jobs and numerous jobs to pay a lawyer. Still, I could not get further than every other Thursday, every other weekend, and call every Monday and Wednesday for visitation rights. Most of the time, Damir and I had to hide and talk between those times because of his father's verbal and physical abuse towards him if any affection between my son and myself was displayed. Damir was not allowed to have my photo; he could not talk about me or verbalize his love for me. I remarried in 2001 to a military gentleman stationed in San Diego and Florida. Before moving out of Utah, I obtained verbal promises from Damir's father that my son could visit me on any holiday he likes and stay over the summer when school is out. Only because of that promise I relaxed and moved. That promise was never fulfilled because, from that moment, I could not see my son for many years. I later found out that Damir was brainwashed by his father. I was portrayed as an evil person who did not love my son, left him, and never cared for him. That damaged Damir's psyche tremendously. On top of that, his father continued to be verbally and physically abusive. My son inherited my looks, and, in my opinion, that enhanced his father's hate towards him. I continued to call every Monday and Wednesday... for years... no one ever picked up a phone. I visited Utah numerous times and would look for my son. They moved from Tooele, and I could not find him. People in the Bosnian community that I knew would feed me info as "I saw him there or there". I would fly to Utah and go to those places, but I never found my son. When Damir was about 16 years old, someone told me he was working at Smiths on 800 W and 800 S. It was winter, and my mother and I drove from Oceanside, CA, to Utah. We went there every day for a few days until one day, I finally saw him. I approached him and called out his name. He turned towards me and said, "Go away, please, I am not supposed to talk to you!! Go away, please!". I left Utah and did not see my son for a few more years. After that, I moved to Las Vegas and Texas, but my daughter was married and staying in Salt Lake. She called me one day to inform me that Damir had found her and was moving in with her. At that point, he was already doing drugs, and his father kicked him out. I told my daughter to take him in, and as soon as I am done with nursing college, I will join them. I finished nursing college in 2012, moved to Utah, and a long fight for Damir's life started. Due to mental and physical abuse, and forceful separation from his mother, Damir has suffered from PTSD, anxiety, and depression since a young age. Unable to confide in his father and seek help from him, Damir, by using drugs, self-medicated most of his life. I understand he was dealing



drugs at some point. Still, it was never for monetary gain but only to support his addiction. Since Damir and I reunited in 2012, I never gave up or left his side until 2021. In 2018 I remarried (again) another abusive man who had an alcohol habit and was violent towards me, his family, and my family. In 2020 he pulled a gun on Damir (there is a police report), and Damir (not wanting to fight back) left my home. That situation led to my recent divorce. It took many years due to the blackmailing and greed of my ex-husband, but we settled and are divorced now. In 2021 (after the gun incident, as mentioned earlier), Damir said he was a grown man and would like to move in with his girlfriend rather than live with me. So, he did. I am not sure what transpired in that apartment and between them. As I understand, my son started using "uppers" (his words), and I assume those "uppers" had catastrophic reactions on his brain cells because he was not the Damir I knew. His psychological being started spiraling down, and he cut ties with his sister and me. I still think he would not be alive today if Angel did not call his PO. Damir was hallucinating, paranoid, and, all in all, not himself. I wish I did not divorce Damir's father. I wish my son did not grow up without me. Sometimes, I close my eyes and imagine him being 7 or 8 years old with a fever and calling for his mom, who is not there to care for him. I imagine him being 15, falling in love for the first time, and not having his mom to tell secrets to. I imagine lots of things and assume so does he. I cannot think about the pain and abuse he endured without me being there to protect him as every mother should. My son is a wonderful young man. He is well-mannered, kind, and gentle. Being in and out of prisons (always for nonviolent crimes) turned my son into a gangster, but even so, I do not think it is too late. In 2015-2016 he was one of the best upcoming barbers in Salt Lake City. He loves barbering and is very talented. He wants a kid; I think he would be the most wonderful father. But his PTSD, anxiety, and depression were never addressed and treated. I live by myself, and my door is always open for my son. He has a home and vehicle waiting for him. Several friends and acquaintances offered warehouse jobs as soon as he came out. He can also open a nice barber shop or work in one. Home, vehicles, and jobs are not an issue. Please do not hesitate to contact me if you need any other info or any details relating to his life. I hope this will help, but I will add more if needed.

Thank you very much for your help, Ed.

Slavica

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